APPENDIX C

Federal Statutory Provisions Involved
Title 42 U.S.C § 1983

§ 1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or to other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

State of Kansas Statutory Provision Involved
In pertinent part:

K.S.A. 60-302
§ 60-302. Summons; Form

The summons shall be signed by the clerk, dated the day it is issued, be under the seal of the court and shall be in substantial conformity with the forms for summons contained in the appendix of forms following K.S.A. 60-269.

§ 60-303. Methods of Service of Process

(a) Methods of service of process within this state, except service by publication as provided in K.S.A. 60-307, amendments thereto, are described in this section. Methods of out-of-state service of process are described in K.S.A. 60-308, and amendments thereto.

(b) Service by Certified Mail. Except if the attorney for the party or the party, if the party is not represented by an attorney, requests personal or residence service pursuant to subsection (c); if the attorney or the party requesting service elects to serve process by certified mail pursuant to this subsection; as provided in K.S.A. 60-903, 60-2401 or 60-3104, and amendments thereto; or as otherwise provided by law, the sheriff of the county wherein the action is filed shall serve any process by certified mail, evidenced by return receipt signed by any person or by restricted delivery, unless otherwise permitted by this article. The sheriff, attorney for the party seeking service or the party, if the party is not represented by an attorney, shall cause a copy of the process and petition or other document to be placed in an envelope addressed to the person to be served in accordance with K.S.A. 60-304, and amendments thereto, adequate postage to be affixed and the sealed envelope to be placed in the United States mail as certified mail return receipt requested with instructions to the delivering postal employee to show to whom delivered, date of delivery, and address where delivered. The sheriff, party's attorney or the party, if the party is not represented by an

attorney, shall execute a return on service stating the nature of the process, the date on which the process was mailed, and the name and address on the envelope containing the process mailed as certified mail return receipt requested. The sheriff, party or the party's attorney shall file the return on service and the return receipt or return envelope in the records of the action. Service of process shall be considered obtained under K.S.A. 60-203, and amendments thereto, upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the sheriff, serving party or the party's attorney shall send a copy of the process and petition or other document to be served to the defendant by ordinary, first-class mail. The mailing shall be evidenced by a certificate of mailing which shall be filed with the clerk. Service shall be considered obtained upon the mailing by ordinary, first-class mail. Failure to claim certified mail service is not refusal of service within the meaning of this subsection.

(c) Personal and Residence Service.

(1) When the plaintiff files a written request with the clerk for service other than by certified mail, service of process shall be made by personal or residence service. Personal service shall by made by delivering or offering to delivery a copy of the process and accompanying documents to the person to be served. Residence service shall be made by leaving a copy of the process and petition, or other document to be served, at the dwelling house or usual place of abode of the person be served with some person of suitable age and discretion residing therein. If service

cannot be made upon an individual, other than a minor or a disabled person, by personal or residence service, service may be made by leaving a copy of the process and petition, or other document to be served, at the defendant's dwelling or usual place of abode and mailing a notice that such copy has been left at such house or place of abode to the individual by first-class mail.

§ 60-304. Service of Process, on Whom Made

As used in this section, "serving" means making service by any of the methods described in K.S.A. 60-303, and amendments thereto, unless a specific method of making service is prescribed in this section. Except for service by publication under K.S.A. 60-307, and amendments thereto, service of process under this article shall be made as follows:

(a) Individual. Upon an individual other than a minor or a disabled person, by serving the individual or by serving an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by statute to receive service, such further notice as the statute requires shall be given. Service by certified mail shall be addressed to an individual at the individual's dwelling house or usual place of abode and to an authorized agent at the agent's usual or designated address. If service by certified mail to the individual's dwelling house or usual place of abode is refused or unclaimed, the sheriff, party or party's attorney seeking service may complete service by certified mail, restricted delivery, by serving the individual at a business address after filing a return on service stating the certified mailing to the individual at such individual's dwelling house or usual place of abode has been refused or unclaimed and a business address is known for such individual.

§ 60-308. Service Outside State

(a) **Proof and Effect.**

(1) Service of process may be made upon any party outside the state. If upon a person domiciled in this state or upon a person who has submitted to the jurisdiction of the courts of this state, it shall have the force and effect of service of process within this state; otherwise it shall have the force and effect of service by publication.

(2) The service of process shall be made (A) in the same manner as service within this state, by any officer authorized to make service of process in this state or in the state where the defendant is served or (B) by sending a copy of the process and of the petition or other document to the person to be served in the manner provided in subsection (e). No order of a court is required. An affidavit, or any other competent proofs, of the server shall be filed stating the time, manner and place of service. The court may consider the affidavit, or any other competent proofs, in determining whether service has been properly made.

§ 60-312. Proof of Service.

Proof of service shall be made as follows:

(a) Personal and Residence Service.

(1) Every officer to whom summons or other process shall be delivered for service within or without the state, shall make a statement subject to penalty of perjury as provided in K.S.A. 21-3805 and amendments thereto as to the time, place and manner of service of such writ.

(2) If service of such process is directed to and delivered to a person, other than an officer, for service, such person shall make affidavit as to

the time, place and manner of such person's service thereof.

(b) **Service by Certified Mail**. Service by certified mail shall be proven in the manner provided by subsection (b) of K.S.A. 60-303 or subsection (e) of K.S.A. 60-308, and amendments thereto.